

U.S. Department of Labor

Assistant Secretary for
Employment Standards
Washington, D.C. 20210



August 2, 2006

The Honorable Bill Frist, M.D.
Majority Leader
United States Senate
Washington, D.C. 20510

Dear Leader Frist:

You have asked for the views of the Department of Labor's Wage and Hour Division (WHD) regarding Section 402 of the Estate Tax and Extension of Tax Relief Act of 2006 (the Act). If Section 402 of the Act ("Tipped Wage Fairness") were passed into law, WHD would read Section 402 as protecting the current minimum wages of the tipped employees in the seven states that now exclude a tipped employee's tips from being considered as wages because to do otherwise would be inconsistent with what we understand to be the intent of Congress and the Fair Labor Standards Act, which WHD enforces.

Nevertheless, we are aware that some have argued that Section 402 is ambiguous. We would be pleased to work with the Congress to clarify that the intent of Congress is to protect the current minimum wages of tipped employees. Please contact me if the Department can be of further assistance.

Sincerely,

A handwritten signature in black ink that reads "Victoria A. Lipnic". The signature is written in a cursive style with a large initial "V".

Victoria A. Lipnic